

REMARKS

By the above actions, claims 9 and 17 have been amended. In view of the above amendments and the following remarks, further consideration of this application is requested.

Claims 17-19 have been rejected under 35 USC § 102 as being anticipated by the Saalfeld German reference while claims 9, 10, 12, 13, 15 & 16 were found to be unpatentable under 35 USC § 103 over Saalfeld when viewed in combination with the Kotrotsios patent. These rejections are inappropriate as to the claims as rejected and clearly do apply to the claims as now presented for the following reasons.

In particular, the Examiner's characterization of the claimed space as only needed to be somewhere between the masonry is considered inappropriate. However, to preclude the further application of such an interpretation, claim 9 has been amended to indicate that "a stationary air layer is formed *filling* a space defined *extending from said reflective layer* on the front masonry wall *to the facing side of the rear masonry wall*, said space being otherwise free of insulating materials," while claim 17 now states that the air gap extends between the masonry walls and that the metal reflective layer on the side of the outer masonry wall which in the walled-in state faces inwardly is located "*directly* on the inwardly facing side of the outer masonry wall." Clearly, Saalfeld's foil layer 4 is located on the insulation layer 5 and not directly on his masonry wall 6, while his air space 3 does not extend between the masonry walls, i.e., filling the space between the reflective layer on the front masonry wall to the facing side of the rear masonry wall, merely being disposed between the foil on the insulation 5 and the insulation 2 on the other masonry wall 1.

Nothing in the disclosure of the Kotrotsios patent can lead to modification of the Saalfeld structure in a way that would lead to the present invention. First, Kotrotsios also utilizes insulating materials between his masonry walls, not simply a static air space, and the stationary air space 4f of Fig. 13 to which the Examiner has made reference are pockets in the plaster board supports that are clearly incomparable to the stationary air space claimed by applicant and adding such a material with pockets to Saalfeld would not result in the claimed invention; however, it would not be obvious to such a material of Kotrotsios to the arrangement of Saalfeld since it would preclude the extraction of heat from the air that is a

key component of Saalfeld's concept. It is well established patent law that it is not obvious to combine teachings in a way that destroys a key aspect of the prior art being modified.

In view of the foregoing, reconsideration and withdrawal of the outstanding rejections based on either Saalfeld or Saalfeld and Kotrotsios are in order and are hereby requested.

Therefore, in the absence of new and more relevant prior art being discovered, this application should now be in condition for allowance and action to that effect is requested. However, while it is believed that this application should now be in condition for allowance, in the event that any issues should remain, or any new issues arise, after consideration of this response which could be addressed through discussions with the undersigned, then the Examiner is requested to contact the undersigned by telephone for the purpose of resolving any such issue and thereby facilitating prompt approval of this application.

Respectfully submitted,

By: 

David S. Safran
Registration No. 27,997

Customer No. 25570

Roberts Mlotkowski Safran & Cole, P.C.
P.O. Box 10064
McLean, VA 22102

Direct Telephone: (703) 584-3273

DSS:kmm